

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:

Ruben Locke, III

Debtor

Case No.: 20-10421

Chapter: 13

Hearing Date: 9/25/2020

Judge LaShonda A. Hunt

**NOTICE OF MOTION**

TO: Glenn B Stearns, Chapter 13 Trustee, 801 Warrenville Road Suite 650, Lisle, IL 60532 by electronic notice through ECF  
Ruben Locke, III, Debtor, 185 Azalea Circle, Romeoville, IL 60446  
Tieisha Tandem Locke, Co-Debtor, 185 Azalea Circle, Romeoville, IL 60446  
David M Siegel, Attorney for Debtor, 790 Chaddick Drive, Wheeling, IL 60090 by electronic notice through ECF

PLEASE TAKE NOTICE that on 9/25/2020, at 10:15 AM, I will appear telephonically before the Honorable Judge LaShonda A. Hunt, or any judge sitting in her place, and present the motion of Codilis & Associates, P.C. for U.S. Bank National Association, as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass-Through Certificates, Series 2005-KS11, a copy of which is attached.

**This motion will be presented and heard telephonically using AT&T Teleconference. No personal appearance in court is necessary or permitted. To appear and be heard telephonically on the motion, you must call in to the hearing using the following information—Toll Free Number: 1-888-557-8511; Access Code: 7490911.**

**If you object to this motion** and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

**PROOF OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on September 16, 2020 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on September 16, 2020.

/s/ Joel P. Fonferko  
Attorney for Movant

Berton J. Maley ARDC#6209399  
Rachael A. Stokas ARDC#6276349  
Peter C. Bastianen ARDC#6244346  
Joel P. Fonferko ARDC#6276490  
Brenda Ann Likavec ARDC#6330036  
Terri M. Long ARDC#6196966  
**Codilis & Associates, P.C.**  
15W030 North Frontage Road, Suite 100  
Burr Ridge, IL 60527  
(630) 794-5300  
**14-19-11177**

NOTE: This law firm is a debt collector.

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on September 16, 2020 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on September 16, 2020.

Glenn B Stearns, Chapter 13 Trustee, 801 Warrenville Road Suite 650, Lisle, IL 60532 by electronic notice through ECF

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Tieisha Tandem Locke, Co-Debtor, 185 Azalea Circle, Romeoville, IL 60446

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/s/ Joel P. Fonferko  
Attorney for Movant

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY  
OR IN THE ALTERNATIVE TO DISMISS THE CASE FOR FAILURE TO MAKE  
PLAN PAYMENTS**

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**NOW COMES** U.S. Bank National Association, as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass-Through Certificates, Series 2005-KS11, (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) and §1301(c) for an Order granting Movant relief from the automatic stay and co-debtor stay, or alternatively, for entry of an order dismissing the case pursuant to 11 U.S.C. §1307, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;

2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 185 Azalea Cir, Romeoville, IL 60446;

3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 5/5/2020;

4. The Chapter 13 plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceeding;

5. Pursuant to the plan, Debtor is to disburse the current monthly mortgage payments directly to Movant beginning with the first payment due after the filing of the Chapter 13 Bankruptcy (subject to periodic adjustment due to change in escrow);

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 08/17/2020, the Debtor is past due for the 06/01/2020 payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 08/17/2020, the total post-petition default through and including 08/01/2020, is \$1,889.88, which includes a suspense credit of \$771.45. Any payments received after this date may not be reflected in this default;
- c) On 09/01/2020, the default will increase, and will continue to increase as additional amounts become due;

7. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

8. That sufficient grounds exist to dismiss this proceeding under 11 U.S.C. §1307 as:

- a) Debtor's failure to timely pay post-petition mortgage payments as required under the plan and 11 U.S.C. §1322(b)(2) and (b)(5) constitutes an unreasonable delay that is prejudicial to moving creditor and the case should be dismissed under §1307(c)(1);
- b) Debtor's failure to timely pay post-petition mortgage payments as required under the plan and 11 U.S.C. §1322(b)(2) and (b)(5) constitutes "cause" and the case should be dismissed under the general provisions of 11 U.S.C. §1307;

- c) The default in post-petition mortgage payments constitutes a material default under paragraph C of the Chapter 13 plan and case should be dismissed under §1307(c)(6);

9. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

10. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

\$1,050.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same  
\$181.00 for Court filing fee

11. PHH Mortgage Corporation services the underlying mortgage loan and note for the property referenced in this Motion for Relief for U.S. Bank National Association, as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass-Through Certificates, Series 2005-KS11 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of U.S. Bank National Association, as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass-Through Certificates, Series 2005-KS11 (the noteholder). U.S. Bank National Association, as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass-Through Certificates, Series 2005-KS11 (the noteholder) has the right to foreclose because: Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

12. That the subject note and mortgage are co-signed by Tieisha Tandem Locke and that to the extent that the co-debtor stay of 11 U.S.C. §1301 applies to real estate loans, it applies to Tieisha Tandem Locke and grounds exist for relief therefrom under 11 U.S.C. §1301(c)(1) as the co-debtor received an ownership interest in the house and under 11 U.S.C. §1301(c)(3) if the automatic stay is modified therein;

**WHEREFORE**, U.S. Bank National Association, as Trustee for Residential Asset Securities Corporation, Home Equity Mortgage Asset-Backed Pass-Through Certificates, Series 2005-KS11 prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) and Section 1301(c) modifying the automatic stay and co-debtor stay as to Movant, or alternatively, for an entry of an order dismissing the case pursuant to 11 U.S.C. §1307, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this September 16, 2020.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Joel P. Fonferko

Berton J. Maley ARDC#6209399

Rachael A. Stokas ARDC#6276349

Peter C. Bastianen ARDC#6244346

Joel P. Fonferko ARDC#6276490

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